

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MUHAMMAD KHAN,  
Plaintiff,  
v.  
M. PAYTON,  
Defendant.

Case No. 20-03086 BLF (PR)

**ORDER GRANTING IN PART  
MOTION FOR THIRD EXTENSION  
OF TIME TO FILE SECOND  
AMENDED COMPLAINT;  
DENYING MOTION FOR STAY**

(Docket No. 30)

Plaintiff, a state prisoner, filed a *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against an officer at San Quentin State Prison. Dkt. No. 1. On June 14, 2021, the Court screened Plaintiff's first amended complaint and granted leave to amend an equal protection claim. Dkt. No. 22. In the alternative, Plaintiff was advised that he may file notice to proceed solely on the cognizable claims identified in the order. *Id.* at 8.

Plaintiff has filed a motion for a stay or a third extension of time of 120-180 days to file a second amended complaint. Dkt. No. 30. For good cause shown, Plaintiff's motion is **GRANTED IN PART**. Plaintiff's motion for a stay is **DENIED**.

No later than sixty (60) days for the time this order is filed, Plaintiff shall file a second amended complaint using the court's form complaint to correct the deficiencies discussed therein with respect to the equal protection claim against Defendant Payton. The

second amended complaint must include the caption and civil case number used in this order, *i.e.*, Case No. C 20-03086 BLF (PR), and the words “SECOND AMENDED COMPLAINT” on the first page. Plaintiff must answer all the questions on the form in order for the action to proceed. Plaintiff is reminded that the second amended complaint supersedes the original and the first amended complaints, and Plaintiff may not make references to either the original or first amended complaint. Claims not included in the second amended complaint are no longer claims and defendants not named in an amended complaint are no longer defendants. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.1992).

**In the alternative, Plaintiff may file notice that he wishes to proceed solely on the cognizable claims discussed in the court order, *i.e.*, First Amendment claim for the denial of religious freedom, Eighth Amendment claim for the denial of food, violation of due process, and state law claims for intentional infliction of emotional distress and negligence by SQSP, and strike the equal protection claim from the amended complaint. Dkt. No. 22 at 4-5.**


Failure to respond in accordance with this order by filing a second amended complaint in the time provided will result in the dismissal of the equal protection claim for failure to state a claim. This action will proceed on the cognizable claims discussed above.

The Clerk shall include a copy of Plaintiff’s First Amended Complaint, Docket No. 18, with a copy of this order to Plaintiff.

This order terminates Docket No. 30.

**IT IS SO ORDERED.**

**Dated: \_\_March 1, 2022\_\_**

  
BETH LABSON FREEMAN  
United States District Judge